

PEARSON, J.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRILEX INDUSTRIES, INC.,)	
)	CASE NO. 4:11CV02194
Plaintiff,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
VUNITED PARTNERS, LLC.,)	
)	
Defendant.)	ORDER [Resolving ECF No. 11.]

Before the Court is Plaintiff Brilex Industries, Inc.’s unopposed Motion for Default Judgment. [ECF No. 11.](#) The Court has reviewed the Motion, the affidavits of Plaintiff’s counsel, Scott Cochran, Plaintiff’s Vice President, Alex Benyo, the remaining exhibits and the case file.

On October 14, 2011, Plaintiff filed a Complaint alleging that Defendant Vunited Partners, LLC, entered into a contract with Plaintiff in which Plaintiff was to advance \$500,000 to Defendant “to be used to obtain funding for projects of D4 Energy Group, Inc., in which Plaintiff was to be an investor.” [ECF No. 1 at 2.](#) The contract allegedly provided that in the event Defendant was unable to obtain such funding, Defendant was to return the \$500,000 to Plaintiff no later than 45 days from the date it was received. [ECF No. 1 at 2-3.](#) Plaintiff further alleges that although Defendant did not obtain the funding within 45 days of receiving Plaintiff’s advance, Defendant has failed or refused to return the \$500,000. [ECF No. 1 at 3.](#) Plaintiff

asserts breach of contract, unjust enrichment, promissory estoppel, and “fraud/fraud in inducement”; and seeks damages in the amount of \$500,000, plus attorney’s fees, interest, and costs, as well as punitive damages in the amount of \$1,000,000. [ECF No. 1 at 6](#).

Plaintiff has demonstrated that Defendant is a Georgia-registered LLC with a principal office and registered agent located at 369 Benson Manor Circle, Smyrna, GA 30082. [ECF No. 11-2](#). Plaintiff has also demonstrated that, after attempts to serve Defendant at the address of its business and registered agent were unsuccessful, service of process was properly effectuated upon Defendant by delivering the process via Federal Express to the Georgia Secretary of State on November 8, 2012. [ECF Nos. 5, 9, 9-1, 11-1, 11-3](#); *see* [Fed. R. Civ. P. 4\(e\)\(1\)](#); *see also* [Ga. Code § 14-11-209\(f\)](#). Defendant has failed to plead or otherwise defend within the time period specified in [Fed. R. Civ. P. 12\(a\)](#), and has not appeared in this action.

The affidavit of Alex Benyo, Vice President of the Plaintiff, demonstrates to the Court’s satisfaction that (1) there was a contract between Plaintiff and Defendant; (2) Plaintiff advanced \$500,000 to Defendant pursuant to its obligations under the contract; (3) the money was to be used to obtain a Stand-by Letter of Credit (SBLC) from Defendant’s bank; (4) Defendant was contractually bound to return the money if the SBLC was not approved; and (5) the SBLC was not approved and Defendant has failed to return the money. [ECF No. 16](#) and [16-1](#).

For good cause shown, Plaintiff’s Motion for Default Judgment is granted. Judgment shall be entered in favor of Plaintiff in the amount of \$500,000 plus interest and costs. Because Plaintiff has not articulated any basis for its claims for attorney’s fees and \$1,000,000 in punitive damages, no judgment will be rendered for Plaintiff upon these claims.

The Clerk is directed to issue a copy of this Order by regular mail to Vunited Partners, LLC, 369 Benson Manor Circle, Smyrna, GA 30082.

IT IS SO ORDERED.

January 29, 2013
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge